

**THE HON'BLE SRI JUSTICE V.V.S.RAO**

WRIT PETITION No.3466 of 2007

Dated: 23.02.2007

Between:

M/s S.M.S. Exports, rep.by its Managing Partner, Chittoor.

**..... PETITIONER**

AND

The Government of A.P., rep. By its Secretary,  
Industries and Commerce Department, Hyderabad, and others.

**.....RESPONDENTS**

**THE HON'BLE SRI JUSTICE V.V.S. RAO**

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ORDER:

This writ petition is filed assailing the memo No.84335/M.II(1)/2005-4 dated 02.11.2006 issued by first respondent, whereunder the revision filed against the order of third respondent dated 11.05.2005 rejecting the application of the petitioner for grant of quarry lease for black granite was rejected.

The brief fact of the matter is as follows. The petitioner claims to be a partnership firm represented by its managing partner. The petitioner allegedly submitted an application for grant of quarry lease for black granite over an extent of two hectares in survey No.885 situated at Kanipakam Village, Irala Mandal, Chittoor District, on 02.09.2003. After conducting due enquiry, the Mandal Revenue Officer (MRO), Irala Mandal, gave 'No Objection Certificate' (NOC). When the petitioner was advised to attend survey and inspection, the petitioner did not attend on two occasions on 20.09.2003 and 06.11.2003. Third respondent, namely, the Assistant Director of Mines and Geology, Chittoor, recommended rejection of the petitioner's application. Second respondent, namely, the Director of Mines and Geology, Chittoor, after considering the matter, rejected the application on 11.05.2005. Aggrieved by the same, the petitioner preferred a revision under Rule 35-A of the Andhra Pradesh Minor Mineral Concession Rules, 1966 (the Rules, for short), which was rejected on 02.11.2006 on the ground that the petitioner did not attend for survey and demarcation of the applied area on two occasions. It is alleged that after rejecting the application of the petitioner, the application of fourth respondent is being processed, even though MRO did not issue any NOC to it. Therefore, the order of first respondent dated 02.11.2006 is assailed in this writ petition.

The learned counsel for the petitioner strenuously contends that respondents 1 and 2 passed orders without application of mind and violated the principals of natural justice. **Per contra**, the learned Government Pleader for Industries and Commerce sustains the impugned order dated 02.11.2006 contending that ample opportunity was given to the petitioner and as the petitioner failed to avail the same, the application was rejected.

A perusal of the order/proceedings dated 11.05.2005 of second respondent would show that initially Sri E. Saravanan, proprietor of the petitioner firm, namely, M/s S.M.S. Exports, filed the application for grant of quarry lease. He was given notice to attend for inspection and survey on two occasions, but he failed to appear. Third respondent then recommended for rejection of the application of the petitioner. Second

respondent then issued a show-cause notice calling upon the applicant to submit explanation within fifteen days. The applicant sent a reply on 07.01.2004 informing that due to ill-health he did not attend the inspection and requested for one more chance. Second respondent, therefore, directed third respondent to give one more chance to the applicant for attending the inspection and survey. Third respondent again submitted a report on 16.04.2005 to the effect that the applicant did not turn up for inspection and survey of the area applied for, despite five chances given to him. It was also reported by third respondent that MRO reported that the area applied for is abutting to survey Nos.883 and 886, i.e., DKT pattas granted to scheduled caste families and therefore, it is objectionable for grant of quarry lease. After considering the report, second respondent rejected the application. The revisional authority, namely, first respondent, again obtained a report from second respondent and having regard to the background as seen hereinabove, rejected the revision, which was filed by E. Saravaram with similar pleas which he raised before second respondent after receiving the final notice of rejection. First respondent conducted hearing on 08.09.2003 and did not find any reason to interfere with the order of second respondent.

M/s S.M.S. Exports, a registered firm, represented by its Managing Partner, filed this writ petition, who was not applicant before first respondent nor applied for grant of quarry lease. This is not properly explained in the writ petition. Be that as it is, as noticed hereinabove, the reason for rejection of the petitioner's application is relevant for exercise of power under Rule 12(5)(d) of the Rules, which, *inter alia*, provides "a Director shall reject the application for quarry lease in the event of default on the part of the applicant in attending the inspection and survey". That the applicant was suffering from ill-health is not relevant for granting lease especially when adequate number of opportunities were granted to the applicant.

The writ petition is devoid of any merit and is accordingly dismissed. No costs.

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**(V.V.S.RAO, J)**

23<sup>rd</sup> February, 2007  
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